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Rodan & Fields, LLC

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 RODAN & FIELDS, LLC, a California limited
liability company,

17 Plaintiff,

18 v.
19

20 SHAZAD GILANI; SHAIKH KASHIF ALI;
DARLIN GELILANG; and TOP BRANDS IN-
21 TERNATIONAL INC.,

22 Defendants.

CASE No. _____

**COMPLAINT FOR INJUNCTIVE RE-
LIEF, FOR VIOLATION OF 15 USC §
1114; 15 USC § 1125(a); 15 USC § 1125(c);
CAL. BUS. & PROF. CODE § 17200; AND
RELATED CLAIMS**

DEMAND FOR JURY TRIAL

23 **INTRODUCTION**

24 1. This is an action for injunctive relief under the Lanham Act and under California
25 law. Plaintiff Rodan & Fields ("R+F") is a leading provider of skincare products, which sells its
26 products through authorized independent consultants ("Independent Consultants"). To become an
27 Independent Consultant, individuals must agree with the R+F policies, which are incorporated into
28 the consultant agreement that new Independent Consultants are required to sign. These policies

1 strictly prohibit the online sale of R+F products through third-party websites. Despite these clear
2 prohibitions, Defendants have engaged in a far-ranging online scheme to sell R+F products outside
3 of the authorized distribution channels. Defendants' scheme accounts for a significant percentage
4 of all unauthorized Internet sales of R+F products and has caused irreparable harm to R+F's trade-
5 marks, reputation, and to R+F's relationships with its Independent Consultants. Defendants, despite
6 having received several requests to cease their trademark infringement of R+F's trademarks and
7 unauthorized sales, continue to use R+F's trademarks and sell its products without authorization.
8 Accordingly, R+F brings this action for injunctive relief to protect its rights.

9 **PARTIES**

10 1. Plaintiff R+F is a California limited liability company with its principal place of
11 business in San Francisco, California.

12 2. Defendant Shazad Gilani ("Gilani") is an individual who, upon information and be-
13 lief, resides at 1133 Coventry Circle, Glendale Heights, Illinois 60139.

14 3. Defendant Shaikh Kashif Ali ("Ali") is an individual who, upon information and be-
15 lief, resides at 1133 Coventry Circle, Glendale Heights, Illinois 60139.

16 4. Defendant Darlin Gelilang ("Gelilang") is an individual who, upon information and
17 belief, resides at 1133 Coventry Circle, Glendale Heights, Illinois 60139.

18 5. Defendant Top Brands International Inc. ("Top Brands") is an Illinois corporation
19 with its principal place of business at 1133 Coventry Circle, Glendale Heights, Illinois 60139. Upon
20 information and belief, Top Brands is wholly owned and controlled by one, all, or a combination of
21 Defendants Gilani, Ali, and Gelilang.

22 6. Upon information and belief, each Defendant is, and at all relevant times mentioned
23 herein was, the agent, servant, and/or employee of one or more of the other Defendants, and in doing
24 the acts herein alleged, acted within the scope and course of such agency and employment. Upon
25 information and belief, at all relevant times there exists a unity of interest and ownership between
26 Top Brands and the individual defendants such that any individuality and separateness of these De-
27 fendants ceased to exist and that Top Brands is simply the business conduit and alter ego of Defend-
28 ants Gilani, Ali, and Gelilang. Adherence to the fiction of the separate existence of Top Brands

1 would sanction fraud and promote injustice.

2 JURISDICTION AND VENUE

3 7. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.
4 Sections 1331 and 1338, and 28 U.S.C. Section 1367. R+F's claims arise under federal law and, to
5 the extent they arise under state law, this Court has supplemental jurisdiction.

6 8. This Court has personal jurisdiction over Defendants because they are engaging in
7 infringing activities against R+F, which they know is located in California. *See, e.g., Amini Inno-*
8 *vation Corp. v. JS Imps., Inc.*, 497 F. Supp. 2d 1093, 1106 (C.D. Cal. 2007) ("Following Columbia
9 Pictures and Panavision, numerous courts within the Ninth Circuit have found specific jurisdiction
10 in cases where a plaintiff brings suit in its home forum against an out-of-state defendant, alleging
11 that the defendant engaged in infringing activities knowing that plaintiff was located in the forum.").

12 9. Additionally, this Court has personal jurisdiction over Defendants Ali and Gilani,
13 R+F Independent Consultants, because they expressly consented to jurisdiction in this Court pursu-
14 ant to Section 18i of the R+F Consultant Policies and Procedures (the "Policies"). A true and correct
15 copy of the Policies is attached hereto as **Exhibit A**. Defendants Ali and Gilani, in signing up as
16 Independent Consultants, executed an Independent Consultant Application incorporating the Poli-
17 cies (the "Consultant Agreement").

18 10. Further, this Court has personal jurisdiction over all Defendants because they direct
19 business activities toward and conduct business with consumers within the State of California
20 through one or more fully interactive commercial Internet storefronts.

21 11. Venue is proper in this Court under 28 U.S.C. Section 1391(b) because a substantial
22 part of the events and injury occurred in San Francisco, California, and, in the alternative, under
23 Section 1391(b)(3), as Defendants are subject to personal jurisdiction in this district. Further, Venue
24 is proper in this Court under the forum selection clause in the R+F Policies. (*See* Ex. A § 18i.)

25 12. The claims in this action are subject to a mandatory JAMS arbitration clause in the
26 Policies. (*See* Ex. A § 18i.) This action seeks only injunctive relief; all claims for money damages
27 based on the conduct below will be sought in a pending JAMS arbitration. To the extent any claims
28 are later determined not to be arbitrable, the parties hereafter waive arbitration, or any parties are

1 not subject to the arbitration agreement, R+F alternatively seeks money damages. To be clear, the
2 filing of this action is not a waiver of R+F's right to arbitrate all money damage claims involving
3 the conduct alleged herein, and should not be construed to be such a waiver.

4 **INTRADISTRICT ASSIGNMENT**

5 13. Pursuant to Northern District of California Civil Local Rule 3-2(c), this is an Intel-
6 lectual Property Action that is to be assigned on a district wide basis.

7 **FACTUAL ALLEGATIONS**

8 **R+F and Its Trademarks**

9 14. R+F is a leading provider of skincare products in the United States and Canada.

10 15. R+F devotes a significant amount of time, energy, and resources toward protecting
11 the value of its brand, products, name, and reputation. By distributing products exclusively through
12 its Independent Consultants (independent contractors who are authorized and trained to market and
13 sell R+F products), R+F ensures that users of its products receive personal attention and recommen-
14 dations about which R+F products will be best for them. Further, each genuine R+F product is
15 shipped directly by R+F and handled with the utmost care and precision during the packaging and
16 transport process, so that customers receive fresh, undamaged, and unexpired products. In the
17 highly competitive beauty market, quality is a fundamental part of the consumer's decision to pur-
18 chase a product.

19 16. R+F has registered numerous trademarks with the United States Patent and Trade-
20 mark Office with respect to its brand and products, including, but not limited to, Rodan & Fields®
21 (U.S. Trademark Registration Nos. 2,372,867, and 2,371,069), Rodan + Fields® (U.S. Trademark
22 Registration No. 3,165,883), Rodan + Fields Enhancements® (U.S. Trademark Registration No.
23 3,841,995), and Rodan + Fields Essentials® (U.S. Trademark Registration No. 3,234,397) (collec-
24 tively, the "R+F Registered Trademarks").

25 17. The registration for each of the R+F Registered Trademarks is valid, subsisting and
26 in full force and effect. Further, pursuant to 15 U.S.C. Section 1065, the R+F Registered Trade-
27 marks serve as conclusive evidence of R+F's ownership of the marks and of its exclusive rights to
28 use the marks in commerce and in connection with the sale and distribution of R+F's products

1 identified in the registrations, as provided by 15 U.S.C. Section 1115(b).

2 18. R+F actively uses and markets all of the R+F Registered Trademarks in commerce.

3 19. Due to the quality and exclusive distribution of R+F's products, and because R+F is
4 recognized as the source of high quality products, the R+F Registered Trademarks have enormous
5 value.

6 **R+F Production, Distribution, and Quality Control**

7 20. R+F maintains comprehensive quality controls by, among other things, conducting
8 all sales of its products through authorized Independent Consultants and shipping its products di-
9 rectly to its customers.

10 21. Each product contains a batch code, which allows R+F to track, among other things,
11 when and where the product was manufactured and packaged. The batch code helps R+F identify
12 and contain any quality problems that may arise with its products. In the event there are quality
13 issues with a particular product, on a certain production date, or at a certain manufacturing facility,
14 the batch code allows R+F to identify other products that may be affected by the quality problem.
15 With this information, R+F is better able to recall those distributed products that may share the
16 defect and to prevent further recurrence of the defect. Because R+F has many topical skincare and
17 similar products, it is critical for R+F to be able to take measures to track and control any defective
18 products to protect customers and its goodwill.

19 22. R+F maintains control over all shipments to customers, adhering to strict product
20 packaging and handling policies.

21 23. R+F also provides customers who purchase R+F products through authorized chains
22 of distribution with a 60-day Satisfaction Guarantee ("Satisfaction Guarantee") to ensure that users
23 of R+F's products are completely satisfied.

24 24. Pursuant to Section 6i of the R+F Policies, Independent Consultants are required to
25 provide all of their customers with two copies of an official R+F sales receipt, and are required to
26 uphold the R+F Satisfaction Guarantee.

27 25. This Satisfaction Guarantee does not apply to products purchased outside of author-
28 ized channels.

26. To maintain the quality and consistency of its products and packaging, as set forth in R+F's Policies R+F strictly prohibits the sale of its products on the Internet other than through R+F's website or the Independent Consultant's official "Pulse Personal Website":

Consultants may sell the R+F Products through their Pulse Personal Websites (PWS) or through the R+F Website and may also direct Customers to purchase the R+F Products through the R+F Website. Sales of the R+F Products through any other website, including but not limited to Internet auction sites such as eBay or Amazon, or third party bulletin board websites such as Craigslist, are strictly prohibited.

(Ex. A § 11h.)

27. Independent Consultants are also prohibited from purchasing R+F products in bulk unless the Independent Consultants can prove that at least 70 percent of those R+F products were resold to at least three different retail customers within thirty days. (Ex. A. § 5b.)

28. The Consultant Agreement also contains a mandatory arbitration provision that states, in part, that "[a]ny controversy, claim or dispute of whatever nature . . . including but not limited to those arising out of the Consulting Agreement . . . shall be settled through negotiation, mediation or arbitration." (Ex. A § 18i.)

29. The Consulting Agreement further provides that:

Any Dispute not resolved in writing by negotiation or mediation shall be subject to and shall be settled exclusively by final, binding arbitration before a single arbitrator in San Francisco, California, in accordance with the then-prevailing Comprehensive Arbitration Rules of JAMS.

(Ex. A § 18i.)

The Sale of R+F Products on the Internet

30. Despite prohibiting unauthorized sales of R+F products online, unscrupulous operators, through a variety of means, continue to sell R+F's products online to the detriment of R+F's Registered Trademarks and reputation. Each of the Defendants is a participant in an orchestrated scheme with the other Defendants to sell R+F products outside of the authorized channels.

31. On September 9, 2015, Defendant Ali enrolled as an Independent Consultant for R+F and executed the Consultant Agreement that incorporated the Policies prohibiting, among other things, the sale of R+F products on the Internet through unapproved third-party websites.

32. Ali represented to R+F that his address was 1133 Coventry Circle, Glendale Heights,

1 Illinois 60139 ("1133 Address"). A review of the property ownership information publicly available
2 from DuPage County, Illinois shows that the 1133 Address is owned by Defendant Gilani. A true
3 and correct copy of property information relating to the 1133 Address is attached hereto as Exhibit
4 B. Exhibit B was retrieved the webpage for the County of Dupage, Illinois.

5 33. Ali then recruited and sponsored Gilani, who, on or about September 25, 2015, en-
6 rolled as an Independent Consultant for R+F and executed the Consultant Agreement, which incor-
7 porated the Policies prohibiting, among other things, the sale of R+F products on the Internet
8 through unapproved third-party websites.

9 34. When he signed up with R+F, Gilani also recorded his home address as the 1133
10 Address. Gilani further indicated that his billing address was 240 Cortland Avenue, Lombard, Illi-
11 nois 60148 ("240 Address").

12 35. Within weeks of Ali and Gilani signing their Consultant Agreements, several appar-
13 ently distinct unauthorized sellers set up unauthorized storefronts to sell R+F products on eBay,
14 including storefronts named "Celebrita," "genuine-pendant," and "muniya88."

15 36. R+F purchased products from all three storefronts in an effort to identify the individ-
16 uals behind them. All three product deliveries had the same return address: P.O. Box 6608, Villa
17 Park, Illinois 60181 ("P.O. Box 6608 Address").

18 37. Glendale Heights, Lombard, and Villa Park are adjacent neighborhoods in the greater
19 Chicago, Illinois area. For example, the 1133 Address is within four miles of the 240 Address and
20 the Villa Park Post Office—presumably the location of P.O. Box 6608—is also less than four miles
21 from the 240 Address.

22 38. Multiple e-commerce websites (genuine-pendant.com, whoesalependant.org, celeb-
23 ritaitaly.com, eganowholesale.com, and hcgoods.com) each list the 240 Address as their address.
24 R+F is informed and believes these websites are run and controlled by Defendants.

25 39. In mid-October and early November 2015, R+F sent cease-and-desist letters to Ce-
26 lebrita, genuine-pendant, and muniya88 explaining that the sale of R+F products on the Internet
27 through their storefront constituted trademark infringement and that selling R+F products on third-
28 party websites by Independent Consultants is strictly prohibited. No response was ever received by

1 R+F and no products were removed.

2 40. Also in October 2015, through a separate investigation, R+F was able to identify
3 Defendant Gelilang as the individual behind ducklestar1180, yet another unauthorized online seller.
4 Despite receiving cease and desist letters from R+F, Defendant Gelilang continued to sell R+F's
5 products and infringe R+F Registered Trademarks.

6 41. At the time, R+F was unaware of Defendant Gelilang's connection to Defendants Ali
7 and Gilani.

8 42. R+F continued its investigation of Defendants Ali, Gilani, and Gelilang.

9 43. In May 2016, R+F began investigating another unauthorized seller, "Dealsontop,"
10 which began offering for sale a large volume of R+F products on www.amazon.com ("Amazon").
11 As part of its investigation to determine who was behind the Dealsontop Amazon storefront, R+F's
12 investigator purchased R+F products from Dealsontop. Like the products purchased from the Ce-
13 lebrita, genuine-pendant, and muniya88 storefronts, Dealsontop listed the P.O. Box 6608 Address
14 as its return address. The return address further identified a company named "Top Brands" as the
15 selling entity.

16 44. Based on this information, R+F discovered the corporation Top Brands International
17 Inc. ("Top Brands") through the Illinois Secretary of State website.

18 45. The Illinois Secretary of State website identified the registered agent of Top Brands
19 as Defendant Gilani, and that he resided at the 1133 Address, the same address Gilani listed as his
20 home address when he signed up as an R+F Independent Consultant. Attached hereto as **Exhibit C**
21 is a true and correct copy of an Illinois Secretary of State Corporation File Detail Report for Top
22 Brands.

23 46. In summer 2016, Top Brands amended its corporate filings to name Defendant
24 Gelilang as its Secretary and Defendant Ali as its President. Gelilang's listed address as Top Brands'
25 Secretary was, again, the 1133 Address. Attached hereto as **Exhibit D** is a true and correct copy of
26 an Illinois Secretary of State Corporation File Detail Report for Top Brands.

27 47. As a result of its investigation, R+F had now discovered and learned that Defendants
28 Ali, Gilani, Gelilang, and Top Brands were each a participant in a coordinated scheme to engage in

1 the unauthorized sale of products bearing the R+F Registered Trademarks on the Internet, running
 2 their operation out of the greater Chicago, Illinois area, and utilizing the corporation Top Brands,
 3 the 1133 Address, the 240 Address, and the P.O. Box 6608 Address to conduct their unlawful ac-
 4 tivity.

5 **Defendants' Illegal Sale of R+F Products**

6 48. Defendants Ali, Gilani, Gelilang, and Top Brands are engaged in a far-reaching
 7 scheme to acquire and sell R+F products unlawfully. Top Brands alone accounts for a significant
 8 percentage of the unauthorized R+F products on Amazon.

9 49. The R+F products sold by Defendants are not genuine R+F products because the
 10 products were not authorized for sale by R+F, were not sold with the official R+F receipt, were not
 11 sold in consultation with a trained Independent Consultant, did not ship directly from R+F under its
 12 strict packaging and handling policies, did not comply with R+F's quality controls, and were ineli-
 13 gible for the Satisfaction Guarantee offered by R+F.

14 50. R+F is informed and believes that some of the products sold by the Defendants have
 15 also been tampered with, repackaged, and/or damaged.

16 51. As a result, by their unauthorized use of the R+F Registered Trademarks, Defendants
 17 have misled consumers into believing they were purchasing products with the same quality controls
 18 and customer benefits as R+F products; in reality, however, the products sold by Defendants were
 19 materially different from genuine R+F products.

20 **R+F Initiates Arbitration Proceedings**

21 52. Defendants have continued their unauthorized online sales, despite receiving several
 22 requests to cease their unlawful conduct.

23 53. As a result, on July 20, 2016, R+F initiated a formal dispute against Defendant Gi-
 24 lani, pursuant to the Consultant Agreement's arbitration clause. Attached hereto as **Exhibit E** is a
 25 true and correct copy of the Notice of Dispute letter sent to Defendant Gilani.

26 54. On October 3, 2016, R+F also initiated a formal dispute against Defendant Ali pur-
 27 suant to the Consultant Agreement's arbitration clause. Attached hereto as **Exhibit F** is a true and
 28 correct copy of the Notice of Dispute letter sent to Defendant Ali.

55. Because Defendants Top Brands and Gelilang have a preexisting agency and/or employee/employer relationship and were otherwise intertwined with and/or acting in concert with Defendants Ali and Gilani, under California law, Top Brands and Gelilang are subject to the Consultant Agreement's mandatory arbitration clause.

56. Further, R+F is informed and believes that at all relevant times there existed a unity of interest and ownership between Top Brands and the individual defendants such that any individuality and separateness of these Defendants ceased to exist and that Top Brands is simply the business conduit and alter ego of Defendants Gilani, Ali, and Gelilang. Adherence to the fiction of the separate existence of Top Brands would sanction fraud and promote injustice.

R+F Has Suffered Significant Harm

57. R+F has suffered, and will continue to suffer, irreparable harm to its quality control procedures, the R+F Registered Trademarks, and its goodwill based upon Defendants' actions.

58. Defendants conduct was knowing, intentional, willful, malicious, wanton, and contrary to law.

59. R+F is entitled to injunctive relief because Defendants will continue to unlawfully participate in the sale of R+F products, including the sale of R+F products outside regular distribution channels, thus compromising quality controls, and by selling products with the R+F Registered Trademarks that are materially different than those offered for sale by R+F. Defendants' ongoing illegal conduct has caused and will continue to cause irreparable harm to R+F's goodwill; has induced R+F's Independent Consultants to breach their Consultant Agreements; and has caused and will continue to cause R+F and its Independent Consultants to lose business. R+F is further entitled to injunctive relief to prevent Defendants' further breaches of the Consultant Agreement.

60. Moreover, Defendants' illegal conduct poses a threat to the public because in the event that a defect was discovered in any of R+F's topical skincare products, R+F would be unable to alert any consumers who purchased such products from one or more of Defendants.

FIRST CAUSE OF ACTION

(Trademark Infringement – 15 U.S.C. §§ 1114 and 1125(a)(1)(a))

61. R+F re-alleges the allegations set forth in paragraphs 1-60 above.

1 62. The R+F Registered Trademarks are valid and subsisting trademarks in full force and
2 effect.

3 63. Defendants willfully and knowingly used the R+F Registered Trademarks in com-
4 merce with the sale of products without the consent of R+F.

5 64. The use of the R+F Registered Trademarks in connection with the unauthorized sale
6 of products by Defendants was likely to cause confusion, cause mistake, or deceive because it sug-
7 gested that the products offered for sale by Defendants were the same as the products legitimately
8 bearing the R+F Registered Trademarks, and originated from, or were sponsored, authorized, or
9 otherwise connected with R+F.

10 65. Defendants' unauthorized use of the R+F Registered Trademarks has infringed and
11 materially damaged the value of the R+F Trademarks.

12 66. As a proximate result of Defendants' actions, R+F has suffered and will continue to
13 suffer great damage to its business, goodwill, reputation, and profits.

14 67. R+F has no adequate remedy at law for Defendants' infringement. Unless Defendants
15 are permanently enjoined, R+F will suffer irreparable harm.

16 68. Pursuant to 15 U.S.C. Section 1117(a), R+F is entitled to an award of attorneys' fees.

17 **SECOND CAUSE OF ACTION**

18 **(False Advertising – 15 U.S.C. § 1125(a)(1)(b))**

19 69. R+F re-alleges the allegations set forth in paragraphs 1-68 above.

20 70. The R+F Registered Trademarks are valid and subsisting trademarks in full force and
21 effect.

22 71. In their listings on the Internet, including but not limited to eBay and Amazon, De-
23 fendants willfully and knowingly used the R+F Registered Trademarks in commerce with the sale
24 and advertising of products without the consent of R+F.

25 72. The use of the R+F Registered Trademarks in connection with the unauthorized sale
26 and advertising of products by Defendants was likely to cause confusion, cause mistake, or deceive
27 because it suggested that the products offered for sale were genuine and authentic products, and
28 originated from, or were sponsored, authorized, or otherwise connected with R+F.

FOURTH CAUSE OF ACTION

(Trademark Dilution – 15 U.S.C. § 1125(c))

84. R+F re-alleges the allegations set forth in paragraphs 1-83 above.

85. The R+F Registered Trademarks are valid and subsisting trademarks in full force and effect.

86. R+F is the owner of the R+F Registered Trademarks, which are distinctive and widely recognized by the consuming public.

87. R+F is widely recognized by the consuming public as the designated source of goods bearing the R+F Registered Trademarks.

88. Defendants' willful use of the R+F Registered Trademarks in connection with the unauthorized and illegal sale of R+F products diluted the R+F Registered Trademarks because the products sold by Defendants on the Internet were not, in fact, genuine and authentic R+F products.

89. As a result of Defendants' unlawful actions, the reputation and goodwill associated with the R+F Registered Trademarks was harmed and R+F suffered immediate and irreparable injury.

90. Further, R+F has suffered damages including, but not limited to, loss of sales, trademark infringement, and damage to its existing and potential business relations.

91. Pursuant to 15 U.S.C. Section 1117(a), R+F is entitled to an award of attorneys' fees.

FIFTH CAUSE OF ACTION

(Common Law Trademark Infringement)

92. R+F re-alleges the allegations set forth in paragraphs 1-91 above, and incorporates each allegation herein by reference.

93. The R+F Registered Trademarks are valid and subsisting trademarks in full force and effect.

94. R+F is the owner of the R+F Registered Trademarks, which are distinctive and widely recognized marks by the consuming public. R+F products are sold and purchased through its Independent Consultants throughout the United States, including California.

95. R+F is widely recognized as the designated source of goods bearing the R+F

1 Registered Trademarks.

2 96. Defendants' knowing and willful use of the R+F Registered Trademarks in connec-
 3 tion with the unauthorized and illegal sale of R+F products without R+F's consent infringed on the
 4 R+F Registered Trademarks. This infringement includes selling "R+F products" that were materi-
 5 ally different from genuine and authentic R+F products because, among other reasons, the products
 6 sold on the Internet by Defendants did not have the same quality control procedures as authentic
 7 R+F products and consumers did not receive the warranties that R+F offers its customers who pur-
 8 chase R+F products through authorized chains of distribution.

9 97. The R+F products sold on the Internet by Defendants were not, in fact, genuine and
 10 authentic R+F products.

11 98. Defendants' use of R+F Registered Trademarks is likely to cause confusion, mistake,
 12 or deception among consumers, who believe that the products sold by the Internet by the Defendants
 13 are identical to and endorsed by R+F when, in fact, they are not.

14 99. As a result of Defendants' unlawful actions, the reputation of the R+F Registered
 15 Trademarks was harmed and R+F suffered immediate and irreparable injury.

16 100. Further, R+F has suffered damages including, but not limited to, loss of sales, trade-
 17 mark infringement, loss of goodwill associated with its products, and damages to its existing and
 18 potential business relations.

19 **SIXTH CAUSE OF ACTION**

20 **(Unfair Competition [Cal. Bus. & Prof. Code § 17200, *et. seq.*])**

21 101. R+F re-alleges the allegations set forth in paragraphs 1-100 above, and incorporates
 22 each allegation herein by reference.

23 102. Defendants' obtaining of R+F product through unlawful means and subsequent dis-
 24 tribution or sale of R+F products constitutes an unfair and/or fraudulent business practice, as de-
 25 scribed in California Business and Professions Code Sections 17200, *et seq.* as they are likely to
 26 deceive and mislead the public.

27 103. Defendants' acts of unfair competition have caused and will continue to cause R+F
 28 irreparable harm. R+F has no adequate remedy at law to Defendants' unfair competition.

1 104. R+F is entitled to judgment enjoining and restraining Defendants from engaging in
2 further acts of infringement and unfair competition.

3 **SEVENTH CAUSE OF ACTION**

4 **(Breach of Contract)**

5 105. R+F re-alleges the allegations set forth in paragraphs 1-104 above, and incorporates
6 each allegation herein by reference.

7 106. This claim arises under the laws of the State of California.

8 107. Defendants Ali and Gilani each entered into a contractual relationship with R+F
9 through their Consultant Agreements that specified that the Defendants were prohibited from selling
10 R+F products on or through the Internet, other than through R+F's website.

11 108. Because Defendants Top Brands and Gelilang have a preexisting agency and/or em-
12 ployee/employer relationship and were otherwise clearly intertwined with and/or acting in concert
13 with Defendants Ali and Gilani, under California law, Top Brands and Gelilang are subject to the
14 Consultant Agreement.

15 109. R+F fulfilled its obligations under the Consultant Agreement.

16 110. All conditions required by the Consultant Agreement for Defendants' performance
17 had occurred.

18 111. Defendants sold products on or through the Internet in violation of the Consultant
19 Agreement.

20 112. As a direct and proximate result of the material breach of the Consultant Agreement
21 by Defendants, R+F has sustained general, exemplary, and incidental damages in an amount pres-
22 ently unknown, but in excess of the minimal jurisdictional limit of this Court.

23 **EIGHTH CAUSE OF ACTION**

24 **(Intentional Interference with Business Relations, Contracts,
25 and Prospective Economic Advantage)**

26 113. R+F re-alleges the allegations set forth in paragraphs 1-112 above, and incorporates
27 each allegation herein by reference.

28 114. R+F has contractual and business relationships with its Independent Consultants,

1 who sell R+F products. R+F also actively recruits new consultants to promote and sell their products
2 to consumers across the United States.

3 115. Defendants were aware of R+F's contractual and business relationships with its In-
4 dependent Consultants by, among other things, having been Independent Consultants themselves
5 and receiving written notification from R+F's counsel.

6 116. R+F's Policies, which are incorporated into its agreements with its Independent Con-
7 sultants, prohibit Independent Consultants from, among other things, selling products on the Inter-
8 net, other than through R+F's website.

9 117. Defendants interfered with the business relationship between R+F and its Independ-
10 ent Consultants by knowingly providing the means by which Independent Consultants conducted
11 unauthorized sales of R+F products on the Internet.

12 118. By encouraging the sale of R+F products on the Internet, without authorization, De-
13 fendants harmed R+F's prospective business relations as potential consultants are dissuaded from
14 joining R+F and becoming an Independent Consultant due to the availability of R+F products on
15 unauthorized third-party websites.

16 119. Defendants have no legal right, privilege or justification for their conduct.

17 120. As a direct and proximate result of Defendants intentional interference with R+F's
18 prospective economic advantage, R+F has suffered, and will continue to suffer, monetary damages
19 and irreparable injury.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, R+F prays for relief and judgment as follows:

22 1. Preliminary injunction pending the mandatory JAMS arbitration and a permanent
23 injunction following the outcome of the mandatory JAMS arbitration enjoining Defendants and any
24 employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, as-
25 signs, any and all other entities owned or controlled by Defendants, and all of those in active concert
26 and participation with Defendants (the "Enjoined Parties") as follows:

27 a. Prohibiting the Enjoined Parties from advertising or selling, via the Internet
28 or otherwise, all R+F products,

1 b. Prohibiting the Enjoined Parties from using any of the R+F Registered Trade-
2 marks in any manner, including advertising on the Internet,

3 c. Prohibiting the Enjoined Parties from importing, exporting, manufacturing,
4 producing, distributing, circulating, selling, offering to sell, advertising, promoting, or displaying
5 any and all R+F products as well as any products bearing any of the R+F Registered Trademarks,

6 d. Prohibiting the Enjoined Parties from disposing of, destroying, altering, mov-
7 ing, removing, concealing, or tampering with any records related to any products sold by them which
8 contain the R+F Registered Trademarks including: invoices, correspondence with vendors and dis-
9 tributors, bank records, account books, financial statements, purchase contracts, sales receipts, and
10 any other records that would reflect the source of the products that Defendants have sold bearing
11 these trademarks,

12 e. Requiring the Enjoined Parties to take all action to remove from the Enjoined
13 Parties' websites any reference to any of R+F's products, or any of the R+F Registered Trademarks,

14 f. Requiring the Enjoined Parties to take all action, including but not limited to,
15 requesting removal from the Internet search engines (such as Google, Yahoo!, and Bing), to remove
16 from the Internet any of the R+F Registered Trademarks which associate R+F's products or the R+F
17 Registered Trademarks with the Enjoined Parties or the Enjoined Parties' website,

18 g. Requiring the Enjoined Parties to take all action to remove the R+F Regis-
19 tered Trademarks from the Internet, including from the websites www.ebay.com and www.ama-
20 zon.com.

21 2. Following the grant of appropriate preliminary injunctive relief, for a stay of this
22 action pursuant to the Federal Arbitration Act and the Court's inherent powers to efficiently manage
23 its docket, pending a mandatory JAMS arbitration under the Consultant Agreement; and

24 3. For an order compelling Defendants Top Brands International, Inc. and Darlin
25 Gelilang to arbitrate pursuant to the Consultant Agreement.

26 4. An award of attorneys' fees, costs, and expenses.

27 5. Such other and further relief as the Court deems just, equitable and proper.

28 6. In the alternative, judgment in favor of R+F and against Defendants in an amount to

1 be determined at trial, including, but not limited to, compensatory damages, statutory damages, tre-
2 ble damages, restitution, including disgorgement of profits, punitive damages, and pre-judgment
3 and post-judgment interest, as permitted by law. In addition, permanent injunctions enjoining the
4 Enjoined Parties from the conduct described in Section 1(a)-1(g) above.

5 DATED: December 19, 2016.

6 FOX ROTHSCHILD LLP

7
8 By 

9 DWIGHT C. DONOVAN

10 Attorney for Plaintiff Rodan & Fields, LLC

11 **JURY DEMAND**

12 R+F demands a trial by jury on all issues so triable herein.

13 Dated: December 19, 2016.

14 FOX ROTHSCHILD LLP

15
16 By 

17 DWIGHT C. DONOVAN

18 Attorney for Plaintiff Rodan & Fields, LLC
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